



**STATE OF WASHINGTON
GAMBLING COMMISSION**

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February 26, 2004

TO: Rick Day, Director
FROM: Agency Rules Team
SUBJECT: Request for Rule Change

We have received a Petition for Rule Change from Bob Tull, on behalf of DigiDeal Corporation, requesting an amendment to WAC 230-40-070. Currently, this rule allows electronic facsimiles of cards (EFC) to be used in house-banked card games. Mr. Tull is requesting an amendment to allow EFC to be used for all card games, not just house-banked card games (for example, poker games).

Staff has analyzed the Petition and offers these observations for your consideration as you discuss the petition.

History:

In early 2001, DigiDeal Corporation submitted a house-banked card game (Digital 21) for staff review. The game used EFC, rather than traditional paper or plastic cards. At that time, the primary regulatory questions were how the use of EFC would affect the honesty and integrity of the game. From our point of view, with proper internal controls, testing protocols and regulatory monitoring, the integrity of games using EFC would generally be greater than games played with traditional playing cards. It was felt that the elimination of the human element in the handling of the cards and the recordkeeping capability of EFC would make cheating more difficult and provide better evidence for dispute resolution.

At that time, after reviewing Gambling laws and rules, staff determined it was within the Commission's discretion to allow EFC. At the request of DigiDeal, staff brought forward rule amendments to WAC 230-40-010 and WAC 230-40-070, to allow the use of EFC, rather than requiring DigiDeal to submit a formal Petition for Rule Change.

The main policy questions raised were whether approval of EFC would open the door to slot machines or other types of electronic gambling devices such as video poker machines. The main distinction between EFC and electronic gambling devices are that EFC encompass only one element of the gambling activity. The other elements of a card game, wagering, dealing, drawing of cards and settlement of winning and losing wagers are all done in the traditional way using dealers and other casino personnel.

Staff did not see regulatory concerns with card games using EFC, as long as thorough testing was conducted, there was no play directly against the device, a dealer was present (to deal cards, collect the bets, etc.), and the games were approved by the director.

The proposed amendments were discussed at five Commission meetings. The Commission received written correspondence from five State Representatives, Pierce and King County Executives, the Lottery Commission, five tribes, and the Washington Indian Gaming Association opposing the amendment as an expansion of gambling. There was a lot of testimony at the meetings against the proposal and many felt it was an expansion of gambling. At the June 16, 2001, meeting, Commissioner Orr noted that the Commission was only considering licensing a Blackjack table. The amendment was adopted at the July 2001, meeting with a 3 to 1 vote (Commissioner Forrest, Orr and Ludwig voted yes, Commissioner McLaughlin voted no), to become effective January 1, 2002.

At this time, one table utilizing EFC is in operation at the Lummi Tribal casino and two tables at the Skagit Valley Tribal Casino. No regulatory concerns have arisen as a result of these games. In the past, at least two non-tribal card rooms have operated a few tables; however, they no longer do so.

Regulatory Concerns:

No game has been submitted for staff review that meets our rule requirements for nonhouse-banked card games.

Staff believes that any game utilizing EFC should operate at a higher level of regulation than nonhouse-banked games played with traditional cards, because the game is played on a relatively sophisticated electronic device. Therefore, staff recommends that if the Commission allows EFC to be used in all card games, they should only be allowed for house-banked card room licensees.

The other elements of card games, such as wagering, dealing, drawing of cards, settlement of winning and losing wagers etc., should continue to be done in the traditional way using dealers and other casino personnel. If a card game utilizes EFC, no direct play with the machine can be allowed. This is consistent with state law, which does not allow video poker.

Policy Issues and Considerations

While staff is not offering a recommendation since this is a policy consideration, we would offer the following as issues and considerations as you review the petition.

- The use of electronic facsimiles of cards in nonhouse-banked card games will be considered by some to be an expansion of gambling.
- If the Commission chooses to adopt a rule change to allow EFC for nonhouse-banked card games, staff recommends they only be allowed for house-banked card room licensees (Alternative language will be supplied at the direction of the Commission).
- At this time, no game has been submitted for staff review that can be played if this rule amendment is adopted.

Staff will be available to answer your questions at the Commission meeting on March 11 and 12 in Olympia.

Thank you.